

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

THE WATTLES COMPANY, a Washington
corporation,

Plaintiff,

vs.

VERLAN FIRE INSURANCE COMPANY, a
New Hampshire corporation, et al.,

Defendants.

No. 3:14-cv-05097-RBL

VERLAN FIRE INSURANCE
COMPANY'S ANSWER TO PLAINTIFF'S
COMPLAINT AND CROSS-CLAIMS

Defendant Verlan Fire Insurance Company ["Verlan"] submits the following answer and affirmative defenses to Plaintiff The Wattles Company's ["Plaintiff"] Complaint.

I. INTRODUCTION

1. Verlan lacks sufficient information or knowledge to admit or deny the allegations in paragraph 1 and therefore denies the same.

2. To the extent paragraph 2 states conclusions of law rather than factual allegations, no responsive pleading is required. To the extent a response is required, denied as to Verlan.

3. To the extent paragraph 3 states conclusions of law rather than factual allegations, no responsive pleading is required. To the extent a response is required, denied as to Verlan.

II. THE PARTIES

4. Verlan lacks sufficient information or knowledge to admit or deny the allegations in paragraph 4 and therefore denies the same.

5. In answer to paragraph 5, Verlan admits that it is an insurance company and that Verlan issued an insurance policy to The Wattles Company. Verlan lacks sufficient information or knowledge to admit or deny the remaining allegations in paragraph 5 and therefore denies the same.

6. Verlan lacks sufficient information or knowledge to admit or deny the allegations in paragraphs 6, including sub-paragraphs 6.1 -6.4, and therefore denies the same.

7. In answer to paragraph 7, Verlan admits that it is a corporation incorporated in New Hampshire. Verlan admits that it was an authorized insurer in the State of Washington during all relevant times. Verlan admits that it issued the policies identified in sub-paragraphs 7.1 and 7.2 to the Wattles Company. Verlan lacks sufficient information or knowledge to admit or deny the remaining allegations in paragraph 7 and therefore denies the same.

8. Verlan lacks sufficient information or knowledge to admit or deny the allegations in paragraphs 8, including sub-paragraphs 8.1 -8.4, and therefore denies the same.

9. Verlan lacks sufficient information or knowledge to admit or deny the allegations in paragraphs 9 and therefore denies the same.

1 10. Verlan lacks sufficient information or knowledge to admit or deny the
2 allegations in paragraphs 10, including sub-paragraphs 10.1 - 10.3, and therefore denies the
3 same.

4 11. Verlan lacks sufficient information or knowledge to admit or deny the
5 allegations in paragraphs 11, including sub-paragraphs 11.1 - 11.2, and therefore denies the
6 same.

7 12. Verlan lacks sufficient information or knowledge to admit or deny the
8 allegations in paragraphs 12, including sub-paragraphs 12.1 - 12.2, and therefore denies the
9 same.

10 13. Verlan lacks sufficient information or knowledge to admit or deny the
11 allegations in paragraphs 13 and therefore denies the same.

12 14. Verlan lacks sufficient information or knowledge to admit or deny the
13 allegations in paragraphs 14, including sub-paragraphs 14.1 - 14.5, and therefore denies the
14 same.

15 15. Verlan lacks sufficient information or knowledge to admit or deny the
16 allegations in paragraphs 15, including sub-paragraphs 15.1 - 15.2, and therefore denies the
17 same.

18 16. Verlan lacks sufficient information or knowledge to admit or deny the
19 allegations in paragraphs 16 and therefore denies the same.

20 17. Verlan lacks sufficient information or knowledge to admit or deny the
21 allegations in paragraphs 17 and therefore denies the same.

1 18. Verlan lacks sufficient information or knowledge to admit or deny the
2 allegations in paragraphs 18 and therefore denies the same.

3 19. Verlan lacks sufficient information or knowledge to admit or deny the
4 allegations in paragraphs 19 and therefore denies the same.

5 **III. JURISDICTION AND VENUE**

6 20. Verlan lacks sufficient information or knowledge to admit or deny the
7 allegations in paragraphs 20 and therefore denies the same.

8 **IV. COVERED LOSSES AND DAMAGES**

9 21. To the extent paragraph 21 states conclusions of law rather than factual
10 allegations, no responsive pleading is required. To the extent a response is required, Verlan
11 lacks sufficient information or knowledge to admit or deny the allegations in paragraphs 21 and
12 therefore denies the same.

13 22. To the extent paragraphs 22 and 22.1 - 22.2 state conclusions of law rather than
14 factual allegations, no responsive pleading is required. To the extent a response is required,
15 denied as to Verlan.

16 23. To the extent paragraphs 23 and 23.1- 23.5 state conclusions of law rather than
17 factual allegations, no responsive pleading is required. To the extent a response is required,
18 denied as to Verlan.

19 24. To the extent paragraph 24 states conclusions of law rather than factual
20 allegations, no responsive pleading is required. To the extent a response is required, denied as
21 to Verlan.

1 **V. BREACH OF CONTRACT, CPA VIOLATIONS, AND BAD FAITH**

2 25. Verlan incorporates its responses to the allegations in paragraphs 1-24 as though
3 fully incorporated herein.

4 26. To the extent paragraph 26 states conclusions of law rather than factual
5 allegations, no responsive pleading is required. To the extent a response is required, denied as
6 to Verlan.

7 27. To the extent paragraph 27 states conclusions of law rather than factual
8 allegations, no responsive pleading is required. To the extent a response is required, denied as
9 to Verlan.

10 28. To the extent paragraph 28 states conclusions of law rather than factual
11 allegations, no responsive pleading is required. To the extent a response is required, denied as
12 to Verlan.

13 **VI. DECLARATORY RELIEF**

14 29. Verlan incorporates its responses to the allegations in paragraphs 1-28 as though
15 fully incorporated herein.

16 30. To the extent paragraph 30 states conclusions of law rather than factual
17 allegations, no responsive pleading is required. To the extent a response is required, denied as
18 to Verlan.

19 31. To the extent paragraph 31 states conclusions of law rather than factual
20 allegations, no responsive pleading is required. To the extent a response is required, denied as
21 to Verlan.
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VII. PRAYER FOR RELIEF

Verlan denies each and every allegation in Plaintiff's Prayer for Relief, including sub-
parts 1-5.

AFFIRMATIVE DEFENSES

By way of further answer and affirmative defense, Verlan alleges as follows:

1. Plaintiff's complaint fails to state a claim upon which relief can be granted against Verlan.
2. Plaintiff has failed to mitigate its damages.
3. Plaintiff's claims are barred by the equitable defense of unclean hands.
4. Misrepresentation, concealment, and/or failure to disclose.
5. Plaintiff may have failed to comply with all policy terms and conditions set forth in the policy.
6. Plaintiff's alleged damages are subject to its own comparative fault.
7. Plaintiff's claims are barred by various policy terms, conditions and exclusions in the insurance policy(ies) issued to Plaintiff by Verlan.
8. Plaintiff's claims are barred in whole or part to the extent such claims do not arise from recoverable damages under Verlan's policy(ies).
9. Late notice.
10. Statute of limitations.
11. Plaintiff's claims may be barred by the contractual time to sue limitations provision in Verlan's policy.
12. Verlan is entitled to an offset and/or setoff for amounts received by Plaintiff.

13. Pending discovery, Plaintiff's claims may be barred by the doctrines of waiver, estoppel and laches.

14. Plaintiff's alleged loss not a fortuitous event, constituted a known loss.

15. Verlan acted at all times in a reasonable and good faith manner.

16. Verlan reserves the right to amend its Affirmative Defenses as necessary pending further discovery.

CROSS-CLAIMS

1. Verlan incorporates by reference its answers and affirmative defenses set forth above.

2. To the extent Verlan is found to have a coverage obligation to Plaintiff, Verlan asserts a Cross Claim in Contribution and Subrogation against co-defendant insurance carriers for recovery of defense and indemnity obligations consistent with policy terms and conditions and the applicable law.

PRAYER FOR RELIEF

Wherefore, having fully answered The Wattles Company's Complaint, and having asserted its affirmative defenses and cross-claim, Verlan prays for relief as follows:

1. Judgment for Verlan that it has no coverage or indemnity obligations to Plaintiff;

2. That Plaintiff's claims be dismissed with prejudice;

3. For Verlan's costs and fees as allowed by statute and/or law;

4. The jury be permitted to allocate fault and/or contribution to Plaintiff and/or non-parties at fault for injuries and damages, if any, under RCW 4.22.070;

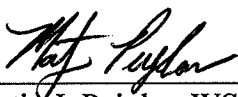
1 5. To the extent that Verlan is adjudged liable to Plaintiff, Verlan prays for a
2 judgment in contribution and subrogation from co-defendant insurers;

3 6. For Leave to Amend this Answer and Affirmative Defenses as allowed by Law;
4 and

5 7. For all other such relief as the Court may deem just and proper.

6 DATED this 13 day of March, 2014.

7 FORSBERG & UMLAUF, P.S.

8 By: 
9 Martin J. Pujolar, WSBA #36049
10 Carl E. Forsberg, WSBA #17025
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CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing VERLAN FIRE INSURANCE COMPANY'S ANSWER TO PLAINTIFF'S COMPLAINT AND CROSS-CLAIMS on the following individuals in the manner indicated:

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10
11 SIGNED this 14th day of March, 2014, at Seattle, Washington.

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13 _____
Veronica M. Waters